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number which, compared with the demands for dwellings, described above, would bring but little relief.

Another suggestion to further the building of dwellings by capitalists aims at increasing the building of dwellings

with renting capacities by exemption of such from all taxes. But the hesitation caused by the present condition of the public finances which seems to oppose this particular solution, has not yet been overcome.

CHAPTER XV

Criminality in Austria

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CRIMINALITY and similar aspects of social life are the reverse of the social and economic conditions and the moral character of a nation. When a heavy economic crisis, the dissolution of a great empire and a vast social subversion coincide, criminality must increase and morality decline. So far as the social condition of Austria is concerned, the unfavorable effects of war-time and the issues of both the War and the Revolution are also to be included. Still further ominous to social life were the misuse of army supplies; the enrichment of many persons at the expense of the nation, the numbers of men who had managed to escape the army service and the excess of governmental prescriptions, which often could not be kept and so weakened the fear of infringing governmental authority. Disastrous, too, was the great disillusionment of all who had sacrificed themselves during the War, expecting some reward, and who, when it was over, had only to endure increased distress and heavier burdens.

The collapse of traditional powers and the creation of a young democracy were additional sources of difficulty for the government since the substitution of a democratic republic for a monarchy must inevitably have ill

effects. The case of the Revolution does not afford a special study of criminal law. We can simply state that the abolition of the monarchy and the institution of the republic took place almost without resistance and bloodshed, an adjustment such as has seldom occurred in history. The Revolution, therefore, did not become in Austria, as so often happens, the starting point and the contagious example for blood-shed and violent deeds. But, on the other hand, the Revolution has been hailed, in pardonable error, as liberation from every authority, as the beginning of a time when only rights exist, and not duties or regard for others. This error is pardonable since democracy requires the highest social and national sentiment, while the Austrian has scarcely been educated far enough to become a good citizen. He has received no training from history, for at the collapse of the old Austria its constitutional life was not older than half a century and the participation of the masses much younger still; or from his schooling, for social education is almost totally neglected in the schools.

The error has been further fed and propagated by the Bolshevik agitation and the papers it controls. The seeds of Bolshevism find most fertile

soil in the general economic distress, in which now this group, now that, sees itself threatened by ruin if it does not try to watch its own interest relentlessly.

INCREASE IN CRIMINALITY

An effort to describe the present criminality in Austria must renounce, to a great degree, any attempt to give statistical figures as fundamental. Some few official figures suffice to show the increase of criminality. The criminal courts of first instance, now belonging to the Austrian Republic, had in 1916 to deal with 16,000 crimes and offenses; in 1918, with 34,000; in 1919, with 44,000 and in 1920, with 64,000. Figures for the lighter offenses or minor criminality, with which the district courts of law have to deal, that is to say, minor robberies, slight bodily injuries, insults, etc. are neglected, but their increase is at least as great as that of the graver criminal cases.

Attacks upon life and body have not generally increased, and personal security is not threatened to any increased degree; a deplorable increase in brutality is to be seen in the lack of consideration, but it does not end in crimes of brutality. A very large increase is to be stated only in the case of abortion. This had already begun during the War and has to be ascribed, in the first instance, to the economic distress and to the impossibility of bringing up healthy children. At present, also, an increase in immorality and thirst for pleasure play a distinct rôle in Austria's social condition.

PROPERTY OFFENSES

The increase of criminality in general has to be ascribed to the increase in offenses against property. Now, as before, armed attacks are seldom, but the primitive forms of attack on other peoples' property, such as theft,

burglary, pocket-picking, theft in the house community and the robbery of transport goods, are particularly frequent. Here, too, the pressure of economic distress is the dominant factor. The freedom from the custom of regular work during the long campaign is another cause; likewise, a wrong conception of the social and economic revolutions and reform projects. As often as a thief attacks other peoples' property to enrich himself he admits the doctrine of private property. But if a revolution proceeds to expel whole classes of the population from their economic obligation, if the common features of "Nationalization" are distorted and used as a means of agitation, and if legislature and administration—justly or not—interfere regardless of existing rights, then, in immature and untrained brains, may easily arise the idea that robbery is an almost authorized way to produce a juster distribution of goods. In such a case there may arise, also, similar confused notions which remove or weaken the restraint against robbery.

This very large increase in property outrages endangers the whole economic life. But already the beginning of an improvement may be acknowledged. The element of distress has been somewhat alleviated by the better state of employment in industry and the smaller number of unemployed, while a wholesome social reaction against robbery has not been wanting. These efforts prove that the majority of the population has remained sound or that many, having become wiser on seeing the damage done, have begun to clear their confused ideas. For the future, all depends upon the question whether the injurious consequences of depreciated currency will not lead to increase of the impulse toward robbery.

PROFITEERING

Reaction against robbery is the more necessary, as embezzlement and fraud, both offenses of economic life, tend, even under sound conditions, to increase with a more lively intercourse, and therefore must increase in Austria. A still greater danger are the profiteers. The very beginning of the War created an economic situation in the scarcity of and craving for goods, in which simply the lack of a strong social feeling was sufficient to sanction *Preistreiberei*, usurious raise of prices. The post-war situation accentuated this tendency to permit unjust profits. Austria's inability to supply her requirements within her own boundaries, the disturbance of all connections, the isolation of Succession States, the continued depreciation of the currency (interrupted only by a short rise in the rate of exchange) produced a quite aleatoric effect in economic life and rendered it in many businesses, almost, if not quite, impossible to discern the limit of just and unjust prices, of allowed and unallowed profit. The legislation has struggled desperately since 1914 against the nuisance of *Preistreiberei*. Beside *Preistreiberei*, other dealings have been threatened with punishment: *Aufkaufen*, the buying of goods to hold until their prices are raised; *Kettenhandel* the passing of goods through more hands than necessary in order that every vendor of them may make a profit in raising the price; *Schleichhandel*, forbidden trade with goods controlled by the state. These penalties include the heaviest imprisonment and fines up to 10,000 kronen.

This war of legislation, however, cannot be won, since symptoms of economic illness, much as they are to be condemned, cannot be removed by penal laws. Beside the fact that the

social reaction is weak at best, it has against it the difficulties of an organization of consumers, the fear of losing the indispensable purveyors and, finally, a large number of those, who have, themselves, become rich by *Preistreiberei* and similar means and are, in consequence, always ready to pay even extremely high prices. *Preistreiberei*, *Kettenhandel* and speculation with foreign values are typical diseases of such times of decay. Quite as much by taking illicit advantage, they do wrong by undermining business morality, by diverting others from their honorable but less profitable work and tempting them to imitation by bringing forth provoking luxury and debauchery.

POLITICAL MENACES

Beside the exploitation of economic freedom in an increase of offenses against property, direct attacks upon social freedom are characteristic of the criminality of Austria at the present time. In the struggle of political factions to carry out economic claims or attempts at organization, menaces, on refusal of fulfilment of duty, are used with the utmost lack of consideration and, also, as if they were incontestable, even lawful means. In contrast to the perpetrators of economic offenses an organized multitude is generally the subject here, or a single person only as representative of a group. Open violence occurs but relatively seldom. It is generally not necessary, as the supreme power does not meet opposition by the means of its strength and as the persons menaced lack organization or power to make resistance. If this were not so, many crimes against the government and its agencies would presently ensue. But as the supreme power intercedes only for mediation and when it is itself threatened tries to find a compromise,

very often no hold at all is laid on these attacks upon freedom by criminal jurisdiction and they appear only to a slight extent in the statistics of criminality. But criminal phenomena they are nevertheless. Yet some people do not see them as attacks on freedom, but even consider that freedom itself is protected by them; *i.e.*, the freedom of the group or organization is protected against the menace, which lies in the conduct of the outsiders or the government opposed to their interest. Such attacks have been called manifestations of the birth of a new conscience concerning the law and of a new state of law. We should call this one of the false doctrines appearing in the garment of sophistry, which are also to be encountered in other domains as morality, art, and are typical of our time. Does the law not disown its purpose if it stands always on the side of the stronger?

The condition described is a transition. It leads either to dissolution or to an attempt to equalize without beforehand making use of the means of menace. In this case organizations are formed to bring about compromises. In spite of some threatening and vexing details our way leads in the second direction. Some tendencies toward it are to be observed in legislation and social institutions. Favorable evolution, however, must not be too much tried by the continuance of the crisis or must not be made impossible by an accentuation of the crisis.

Is this huge increase of criminality chronic or sudden criminality? And is it to be ascribed to habitual criminals or to occasional criminals? To be sure the activity of habitual criminality has increased in the Austrian towns, especially in Vienna, at present attracting many international criminals. It must be remembered, too, that a large

part of the fugitives from East Galicia and Bucovina who came during the War to Vienna and other Austrian towns continued to remain there after the War and that many of these strangers live by *Kettenhandel*, *Schiebungen*, speculations and other dishonest gain. Also even if these persons were condemned by the courts to banishment, the Austrian state would be too weak to actually expell them, especially since the neighboring countries and the native countries of the criminals are opposed. But all this does not suffice to explain the increase of criminality. It must be admitted that an increasing number of hitherto honest persons have fallen into crime. This fact and the heavy criminal taint on the youth of Austria are the most menacing phenomena. Next to them stands the heavy increase of prostitution among the female youth which, characteristically, is generally practised only as extra gain. Here is the danger of an ever spreading immorality, a diminution of the fear of crime, and a criminal infection of the population.

CRIMINAL LEGISLATION

Criminal legislation and jurisdiction conduct a difficult struggle against the increase of crime. If the security of the person is protected as usual and the security of the property not much more endangered, this safety is to be ascribed in the first instance, particularly in the worst cases, to the successful activity of the criminal police. The criminal courts are not less overburdened as means to handle the arrests are insufficient and the prisons overcrowded. The legislation tried to help as much as possible. It introduced *Schöffengerichte*, juries with two elected professional judges and two laymen judges, for all crimes and offenses which do not come before the

courts in consequence of their particular gravity or political character. In this manner the social reaction has with great success been brought to help the criminal jurisdiction. All smaller crimes and offenses can be judged summarily by a single judge (up to one year of imprisonment). Attempts are made to spare the criminal who errs for the first time and the criminal whom it seems possible to improve and to set him up by the probation system, conditional discharge or rehabilitation; and to send him who repeatedly relapses, when the penalty has been payed off, for at most five years, to a workhouse—an approach to indeterminate sentences. All this, however, cannot supply the much needed reform of criminal law and of the prisons, which cannot be put through in consequence of the crisis in public finances.

But even model institutions throughout the whole criminal jurisdiction cannot reduce criminality to a normal degree as long as the pressure of the

economic crisis gives continued impulse to crime, and as long as the steadily depreciated currency allows the unscrupulous to triumph and the honest to perish. Still the majority of the population is sound. What treasure of good qualities it bears, is shown by the resistance which it has opposed till now to the combination of impulses to immorality and criminality described. These qualities are shown, also, in the beginnings of improvement in the criminality, which can be definitely stated, and which, according to observations for the first quarter of 1921, allow the hope that the height of criminality has already been passed. The moral soundness of Austria is further proved by the fact that active Bolshevism, the declaration of violence and crime as forms of government, has (in spite of many attempts by foreign agencies) been unable to take even a provisional hold in the Republic. If Austria is saved financially, the high tide of criminality will at once go down.